IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Crl.MC.No. 2997 of 2007()

L.P.NO.18/03 OF Judicial Magistrate of the First Class,ADOOR

PETITIONER: 2ND ACCUSED

BIJU,S/O. SAMUEL,AGED 30 YEARS,
PUNNAVELILKADAYIL HOUSE, ENATHU MURI,
ENATHU VILLAGE, ADOOR TALUK,PATHANAMTHITTA
DISTRICT.

BY ADV. SRI. K.SHAJ

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2997 of 2007

Dated this the 27th day of September, 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The alleged occurrence took place in 1997. Final report has been filed. Cognizance has been taken. the case has been registered. Consequent to non appearance of the petitioner, the case against the petitioner has been transferred to the list of Long Pending Cases. Coercive processes have been initiated against the petitioner. The petitioner now finds warrants of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful. He is willing to surrender before the learned Magistrate and seek bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merit, in accordance with law and expeditiously. In these circumstances, the petitioner prays that directions under Section 438 and/or 482 Cr.P.C may be issued in his favour.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-